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STATUTORY INSTRUMENTS

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**1998 No. 1869**

**INCOME TAX**

**The Personal Equity Plan (Amendment) Regulations 1998**

<i>Made</i>	- - - -	<i>31st July 1998</i>
<i>Laid before the House of Commons</i>	- - - -	<i>31st July 1998</i>
<i>Coming into force</i>	- -	<i>21st August 1998</i>

The Treasury, in exercise of the powers conferred on them by section 333 of the Income and Corporation Taxes Act 1998<sup>(1)</sup>, section 151 of the Taxation of Chargeable Gains Act 1992<sup>(2)</sup> and section 76(3) of the Finance Act 1998<sup>(3)</sup>, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Personal Equity Plan (Amendment) Regulations 1998 and shall come into force on 21st August 1998.

(2) Regulations 5 to 7 and 9 to 11 shall have effect for the year 1999–00 and subsequent years of assessment.

(3) Regulation 12 shall have effect in relation to any disposal of any securities (whenever acquired) on or after 6th April 1998.

(4) Regulation 13 shall have effect in relation to any disposal of any securities on or after 17th March 1998 and before 6th April 1998.

**Interpretation**

2. In these Regulations—

“the principal Regulations” means the Personal Equity Plan Regulations 1989<sup>(4)</sup>;

“regulation” means a regulation of the principal Regulations;

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(1) 1988 c. 1; section 333 was amended by section 70 of the Finance Act 1991 (c. 31) and by sections 75 and 123(7) of the Finance Act 1998 (c. 36).

(2) 1992 c. 12; section 151 was amended by section 85 of the Finance Act 1993 (c. 34), by section 64(2) of the Finance Act 1995 (c. 4) and by section 75(6) of the Finance Act 1998 and was extended by section 123(7) of the Finance Act 1998.

(3) 1998 c. 36.

(4) S.I. 1989/469, amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756, 1995/1539, 3287, 1996/846, 1355, 1997/511, 1716.

“securities” means any securities within the meaning of section 104 of the Taxation of Chargeable Gains Act 1992<sup>(5)</sup> or any relevant securities within the meaning of section 108 of that Act<sup>(6)</sup>;

“the year 1999–00” means the year of assessment beginning on 6th April 1999.

### **Amendments to the principal Regulations**

3. In regulation 2(1)<sup>(7)</sup>—
  - (a) in paragraph (b) in the definitions of “authorised unit trust”, “fund of funds” and “securities fund” and in paragraph (c) in the definition of “securities company” for the references to “the Securities and Investments Board” there shall be substituted references to “the Financial Services Authority”;
  - (b) in paragraph (c) in the definition of “securities company” for the reference to “that Board” there shall be substituted a reference to “that Authority”.
4. In regulation 4(1)<sup>(8)</sup> after the word “subscribe” there shall be inserted the words “before 6th April 1999”.
5. In regulation 8 the words from “but, so long as” to the end shall be omitted.
6. Regulations 9<sup>(9)</sup>, 10<sup>(10)</sup> and 10A<sup>(11)</sup> shall be omitted.
7. In regulation 16(3)<sup>(12)</sup> paragraphs (iii), (iv) and (v) of sub-paragraph (b) shall be omitted.
8. After regulation 17(2)<sup>(13)</sup> there shall be added—
 

“(3) A plan investor who, after subscribing to a plan at any time, ceases to be resident in the United Kingdom shall be treated for the purposes of determining his entitlement to, and to payment of, tax credits in respect of qualifying distributions so far as they relate to plan investments as if he were so resident.”
9. Regulation 19(5)<sup>(14)</sup> shall be omitted.
10. Regulation 24(1)<sup>(15)</sup> shall be omitted.
11. In regulation 24A(2)<sup>(16)</sup> for paragraphs (iii), (iv) and (v) of sub-paragraph (b) there shall be substituted—
 

“(iii) the market value of the plan investments held under the plan, that value being determined either at 5th April in the year for which, or for part of which, the return is being made or any other valuation date in that year, not falling earlier than 5th October.”
12. In regulation 27<sup>(17)</sup> for paragraphs (2) to (3) there shall be substituted—

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(5) Section 104 was amended by section 123 of the Finance Act 1998 in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).

(6) Section 108 was amended by paragraph 59 of Schedule 14 and Part V of Schedule 41 to the Finance Act 1996 (c. 8) in relation to the year 1996–97 and subsequent years of assessment and by section 124(4) and (5) of the Finance Act 1998 in relation to any disposal on or after 6th April 1998.

(7) Paragraphs (b) and (c) were substituted by S.I. 1997/1716.

(8) Amended by S.I. 1990/678, 1991/733, 2774.

(9) Amended by S.I. 1990/678, 1991/2774, 1992/623, 1993/756.

(10) Inserted by S.I. 1993/756.

(11) Inserted by S.I. 1996/846.

(12) Substituted by S.I. 1993/756 and amended by S.I. 1996/846, 1997/1716.

(13) Amended by S.I. 1990/2231, 1991/733, 1996/846.

(14) Added by S.I. 1993/756 and amended by S.I. 1996/846, 1997/1716.

(15) Substituted by S.I. 1993/756.

(16) Inserted by S.I. 1993/756 and amended by S.I. 1997/1716.

(17) Amended by S.I. 1995/1539, 1996/846, 1997/1716.

“(2) Sections 104 to 114 of the Taxation of Chargeable Gains Act 1992 shall apply for the purposes of pooling and identifying plan investments as if—

(a) in section 106A**(18)** after subsection (11) there were added—

“(12) This section and sections 104, 110, 110A and 114—

(a) shall apply separately in relation to any securities which are held by a person as plan investments so long as they are so held, and

(b) shall apply in relation to any such securities which became plan investments by being transferred or renounced to a plan manager or to a nominee for a plan manager in the circumstances specified in regulation 4(2A)(a), (b) or (c) or 4A(2) as if they had been plan investments—

(i) in the case of securities which were transferred or renounced in the circumstances specified in regulation 4(2A)(a), (b) or (c), and in the case of securities acquired by that person in accordance with the provisions of a savings-related share option scheme which were transferred in the circumstances specified in regulation 4A(2), from the date of their acquisition by him, or

(ii) in the case of securities appropriated to that person in accordance with the provisions of an approved profit sharing scheme which were transferred in the circumstances specified in regulation 4A(2), from the date when he directed the trustees to transfer the ownership of the securities to him or, if earlier, the release date in relation to those securities, and

(c) while applying separately to any such securities, shall have effect as if that person held them in a capacity other than that in which he holds any other securities of the same class whether under another such plan or otherwise.

(13) In this section—

(a) “plan”, “plan investment” and “plan manager” have the same meanings as in the Personal Equity Plan Regulations 1989 and “regulation” means a regulation of those Regulations;

(b) “approved profit sharing scheme” has the same meaning as in Chapter IV of Part V of the Taxes Act and “savings-related share option scheme” has the meaning given by paragraph 1 of Schedule 9 to that Act.”; and

(b) in section 110A**(19)** after subsection (5) there were added—

“(6) Where part of a section 104 holding is treated by section 106A (12)(b)(ii) as having been plan investments since a particular date—

(a) an operative event shall be regarded as having occurred for the purposes of this section immediately before that date consisting of the disposal of the part of that section 104 holding which is so treated, and

(b) this section shall apply in relation to the occurrence of that operative event as it would have applied if it had always applied separately in relation to the part of that section 104 holding which is so treated.”

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**(18)** Inserted by section 124(1) of the Finance Act 1998.

**(19)** Inserted by section 125(2) of the Finance Act 1998.

(3) Section 106A of the Taxation of Chargeable Gains Act 1992 shall apply for the purposes of identifying securities within the meaning of that section which are eligible to become plan investments as if—

- (a) in subsection (4), there were added at the beginning the words “Subject to subsection (14) below”;
- (b) in subsection (6), for the words “subsections (4) and (5) above” there were substituted the words “subsections (4), (5) and (14)”;
- (c) after subsections (12) and (13), as added by paragraph (2), there were added—

“(14) Where a person disposes of securities and securities of the same class which were eligible for transfer to a plan under regulation 4(2A)(a), (b) or (c) or 4A(2) were—

- (a) held by him immediately before that disposal,
- (b) acquired by him on the same day as that disposal, or
- (c) acquired by him within the period of thirty days after that disposal,

and those securities were acquired in the circumstances specified in that regulation, he shall be treated as having first disposed of any securities of that class held or acquired by him which were not so eligible.”

(4) Sections 127 to 131 of the Taxation of Chargeable Gains Act 1992 shall not apply in relation to ordinary shares, qualifying EC shares, other qualifying shares, shares in securities companies, units in funds of funds, units in securities funds or qualifying securities which are held under a plan if there is by virtue of any allotment for payment as is mentioned in section 126(2) of that Act a reorganisation affecting those shares or securities.”

**13.** In regulation 27(2A) after the words “as if” there shall be inserted the words “section 124(8) of the Finance Act 1998 had not been enacted and”.

31st July 1998

*Graham Allen*  
*Bob Ainsworth*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Personal Equity Plan Regulations 1989 (S.I.1989/469 as amended by S.I. 1990/678, 1991/733, 2774, 1992/623, 1993/756, 1995/1539, 3287, 1996/846, 1355, 1997/511, 1716 (“the principal Regulations”)) and come into force on 21st August 1998. The first main effect of the Regulations is that no further subscriptions may be made to existing personal equity plans, and no new plans may be set up, on or after 6th April 1999. The Regulations also contain amendments to the reporting requirements of plan managers which are consequential on the ending of subscriptions.

The second main effect of the Regulations is to amend the adaptation of the capital gains tax provisions by the principal Regulations to take account of the abolition of pooling of securities for capital gains tax purposes by the Finance Act 1998 in relation to disposals on or after 6th April 1998 and of the changes in the identification rules made by that Act in relation to disposals on or after 17th March 1998.

Regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions.

Regulation 3 substitutes references to the Financial Services Authority for references to the Securities and Investments Board in certain definitions in the principal Regulations.

Regulation 4 contains the amendment of regulation 4 of the principal Regulations (general conditions for plans and subscriptions to plans) providing that subscriptions to plans must be made before 6th April 1999.

Regulation 5 makes an amendment which is consequential on the ending of subscriptions and removes a provision of the principal Regulations which will no longer be required.

Regulation 6 is consequential on the ending of subscriptions and removes three regulations from the principal Regulations which deal with applications to subscribe to plans.

Regulation 7 makes an amendment which is consequential on the ending of subscriptions in relation to the reporting requirements for plan managers on the transfer of a plan.

Regulation 8 amends regulation 17 of the principal Regulations (exemption from tax of plan income and gains) by adding a further paragraph providing that a plan investor does not cease to be entitled to payment of tax credits on distributions from plan investments because he ceases to be resident in the United Kingdom.

Regulation 9 makes an amendment which is consequential on the ending of subscriptions in relation to the reporting requirements for plan managers when making interim claims.

Regulation 10 makes an amendment to regulation 24 of the principal Regulations (information to be given to plan investor by plan manager) which is consequential on the ending of subscriptions.

Regulation 11 makes an amendment to the annual reporting requirements for plan managers in relation to plans for which they act during any year.

Regulation 12 makes amendments to regulation 27 of the principal Regulations (capital gains tax—adaptation of enactments) which are consequential on the abolition of pooling of securities for capital gains tax purposes and on changes in the identification rules on the disposal of securities made by the Finance Act 1998 with effect from 6th April 1998.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 13 makes an amendment to regulation 27 of the principal Regulations which is consequential on the change made to the identification rules on the disposal of securities by the Finance Act 1998 for the period from 17th March 1998 to 5th April 1998.

Authority for the retrospective effect of regulations 12 and 13 is given by section 123(7) of the Finance Act 1998.